Decision ALTERNATE DRAFT DECISION OF ALJ MALCOLM (Mailed 8/1/2003)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Future Energy Efficiency Policies, Administration, and Programs.	Rulemaking 01-08-028 (Filed August 23, 2001)

INTERIM ORDER SOLICITING 2004-2005 ENERGY EFFICIENCY PROGRAM PROPOSALS AND ADDRESSING SCOPE OF PROCEEDING

I. Summary

This order solicits energy efficiency program proposals from utilities and other parties for 2004 and 2005. For that solicitation, this order adopts program evaluation criteria, sets the funding period for two years, and addresses how funds may be allocated among different types of entities and between program types. The order describes the process by which the Commission will review and select energy efficiency programs for funding.

In summary, this order changes existing policy and practice or articulates the continuation of existing policy and practice, as follows:

- Any party may apply to manage any type of energy efficiency program funded by public goods charge (PGC) revenues for a two year cycle, 2004-05. Program funding must be approved by a subsequent Commission order;[1]

[1] "Public goods charge" revenues are those collected by the electric utilities pursuant to Section 381 and which are used to fund energy efficiency programs in each of the utilities' territories.)

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- The Commission will award funding to entities and programs that are most likely to fulfill public policy goals and program evaluation criteria;
- Utilities may propose program extensions for another two years and should demonstrate those programs satisfy public policy objectives set by the Commission for evaluating energy efficiency programs. These extensions must be approved by Commission order;
- Third parties implementing existing programs may request 6-month extensions of time to complete their programs with existing funding, which requests the Executive Director may approve or deny;
- Program selection criteria for 2004-05 include cost-effectiveness, equity, ability to overcome market barriers, ability to reduce peak demand, innovativeness, coordination with other programs, and demonstrated success implementing energy efficiency programs.

This order finds that AB 117 requires the Commission to consider energy efficiency program funding proposals from any party and to base funding decisions on a proposal's likelihood of fulfilling public policy criteria.

II. Background

Public Utilities Code Section 381 and Section 890 direct the Commission to allocate about $256 million annually to energy efficiency programs. The electric and gas utilities collect these revenues from customers for the purpose of funding energy efficiency programs.

The Commission has authorized funding for existing energy efficiency programs through the end of 2003 Decision (D.) 03-04-055. The Commission authorized funding for utility programs for a one-year period. It authorized a two-year funding cycle for third parties during 2002 and 2003.

The following table shows expected revenues by utility for 2004 and 2005:

Category	SDG&E	SoCalGas	SCE	PG&E	Total
2004 and 2005 energy efficiency PGC Collections	$75,000,000	$53,990,000	$180,000,000	$240,956,000	$512,446,000

On July 7, 2003 the assigned Commissioner issued a ruling in this proceeding soliciting the parties' comments on a proposal for funding energy efficiency programs for the period 2004 and 2005, among other things. The ruling suggested funding programs for two-year intervals while the Commission is reviewing longer-term program administration. It proposed allowing the utilities to extend funding for existing programs for an additional two years and to permit third parties to extend existing programs to June 1, 2004. It proposed to allocate 15-20% of total funds to third parties and the remainder for utility programs. It would retain existing criteria for evaluating program proposals.

Many parties filed comments in response to the assigned Commissioner ruling: Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company and SoCalGas (jointly, Sempra), the California Energy Commission (CEC), The Utility Reform Network (TURN), Sesco, Women's Energy Matters (WEM), the County of Los Angeles (LA), University of California and California State University (UC/CSU), the Geothermal Heat Pump Consortium (GHPC), the City of San Jose, Energy Solutions, Efficiency Partnership, California State University/Fresno (CSUF), San Diego Regional Energy Office (SDREO), the National Association of Energy Service Companies (NAESCO), American Synergy Corporation, the City and County of San Francisco (San Francisco), Natural Resources Defense Council

(NRDC), Quality Conservation Services (QCS), Proctor Engineering (Proctor), Sisson and Associates (Sisson) Steven Schiller and Douglas Mahone (Schiller & Mahone), Utility Consumers' Action Network, Rita Norton and Associates, Runyon Saltzman and Reinhorn, Inc., California Urban Water Conservation Council (CUWCC), the California Building Performance Contractors' Association, Bevilacqua-Knight, Inc. and Geopraxis, Inc., and Local Power.

This order addresses each issue raised by the ruling and solicits proposals for energy efficiency program funding for 2004-05.

III. 2004-2005 Programs

As context for our discussion below, we affirm the July 3 assigned Commissioner ruling that the Commission should continue to pursue energy efficiency programs aggressively in order to reduce California's energy consumption and to make energy efficiency an essential part of the state's energy program. We have pursued these objectives for the past several years and they reflect the California Energy Action Plan adopted by the Commission, the California Energy Commission and the California Consumer Power and Conservation Financing Authority. In order to accomplish them, we set our sights on programs that most effectively use the limited budget available for energy efficiency programs.

This decision is one in a series of steps toward assuring the Commission is most effectively promoting energy efficiency programs and the benefits that accompany them. To that end, this decision refines the process for awarding funding to various types of entities to implement 2004-05 energy efficiency programs funded by the "Public Goods Charge" on customer bills. We intend to review future solicitation criteria, practices and policies in the context of a broader examination of our energy efficiency programs.

A. Program Funding Cycle

The July 3 assigned Commissioner ruling proposed authorizing program funding for a two-year period for all entities to promote program stability and continuity while the Commission considers future program administration and other long-term issues.

The parties generally express support a two-year funding cycle. Some would support program funding for a three- to five-year period. Proctor Engineering supports multi-year funding but observes that some firms that might provide innovative programs may not survive a two year period without any funding should their initial proposals be rejected.

We state our commitment to funding programs for two years for the period 2004-05 in order to promote program continuity and stability. We intend to consider longer-term funding cycles in the near future as part of a more comprehensive review of energy efficiency program policies and practices.

B. 2004-2005 PGC Funding Allocation

The Commission allocated approximately 20% of PGC funds for energy efficiency programs managed by third parties during 2002-2003. The July 3 assigned Commissioner ruling sought the parties' views on whether the Commission should allocate 15-20% of PGC funds for third-party programs in 2004-2005, assuming the Commission receives adequate proposals for cost-effective programs. The ruling also proposed that the utilities work to develop programs with local governments and third parties.

Many parties commented on how the Commission should allocate funds, raising concerns mainly about the allocation of funding between types of entities. Energy Solutions supports increasing third party PGC funding to as much as 35%, observing that the total funds available for energy efficiency efforts will increase if the Commission permits the utilities to include energy efficiency programs in their procurement portfolios. Energy Solutions observes that including energy efficiency program activities as part of the procurement portfolio means the utilities' total funding may not be reduced, even if future funding from the PGC is lower. Proctor Engineering would reduce utility funding to 60% in 2004 and 40% in 2005. SDREO opposes reductions in third-party funding in favor of government entities "partnering" with utilities. It expresses frustrations with its past efforts to work with the utilities on energy efficiency program delivery.

TURN, Local Power, CUWCC, Sesco and WEM object to limiting third-party funding in any way, suggesting such limits conflict with AB 117. These and other parties believe AB 117 permits third parties to apply for energy efficiency program funding without any limits. Sesco observes that single contractors have implemented utility-sponsored statewide programs and should be permitted to apply for funds independently in the future. WEM suggests the Commission conduct a "blind" program proposal review process to avoid any favoritism in the selection process. Local Power raises concerns that Community Choice Aggregators (CCAs) must be recognized as program administrators.[2]

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[2] CCAs are organizations created by local governments pursuant to AB 117 for the purpose of procuring power and administering energy efficiency programs on behalf of local citizens. We recently addressed certain issues relating to AB 117's requirement that CCAs be provided opportunities to apply for energy efficiency program funding. See D. 03-07-034.

Schiller and Mahone implicitly oppose an automatic allocation between types of entities by proposing that the Commission should take a more strategic approach to the portfolio of programs funded. They suggest developing program mission and goals, determining the types of strategies best able to accomplish the goals, and then developing an administrative structure that fits the strategies.

The CEC proposes that the Commission abandon its practice of selecting energy efficiency programs and instead permit the utilities to select programs and manage them, whether or not the Commission sets aside specific allocations for third parties. The CEC suggests there may be friction and wasted funds in the current set of arrangements.

Discussion. Our objective in this proceeding is to maximize energy savings with cost-effective programs, considering the other public policy criteria we adopt today and those articulated in legislation. Establishing allocations for specific types of entities or programs in advance would frustrate this objective by potentially requiring us to reject cost-effective programs in favor of those that are more expensive and less likely to accomplish our public policy goals.

Evaluating program proposals according to how well they may accomplish public policy objectives is consistent with and required by AB 117 (Chapter 838, September 24, 2002). AB 117 sets forth broad procedures for allocating funds collected under Section 381, among other things. The bill amended Section 381.1 to emphasize that energy efficiency programs authorized by the Commission should advance the public interest “in maximizing cost-effective electricity savings and related benefits.” This mandate is expressed in the context of the statute’s requirement that the Commission “establish policies and procedures by which any party…may apply to become administrators for cost-effective energy efficiency and conservation programs established pursuant to Section 381." The statute does not suggest that the Commission may limit these opportunities on the basis that a party is incorporated as a public utility or any other type of entity. Indeed, this section of the statute does not distinguish utilities from other entities in any way. Section 381.1 requires the Commission to evaluate each party's proposal in light of public policy goals articulated in Section 381, explicitly cost-effective programs that enhance system reliability. Section 381.1 also anticipates an open process by requiring the Commission, in its review of program proposals, to consider "the value of competitive opportunities for potentially new administrators." Read in combination with other portions of Section 381.1, this reference to competitive opportunities supports the interpretation of several parties that the Commission no longer has authority to designate any particular level of funding for utility programs or those of any other entity. Artificially limiting the opportunities for any party to propose an energy efficiency program would contradict the explicit requirements of AB 117.

Responding to CEC's suggestion that the Commission permit the utilities to select third-party energy efficiency programs, we find that AB 117 would not permit such an arrangement. Section 381.1 requires "the Commission…to weigh the benefits of a party's proposal." Because the statute requires us to evaluate proposals, we must interpret it to also require us to select from among them. The Commission may not delegate its authority to a utility or any other entity.

Consistent with AB 117, the ultimate allocation of funding between utilities and other parties, and between different programs, will depend on how well proposals meet adopted evaluation criteria. Applying public policy criteria equally to the program proposals of all entities effectively creates the "blind" program evaluation WEM suggests.

D.03-07-034 already addressed the concerns of WEB and Local Power that CCAs should be granted program funding without having to compete for that funding with other entities. In D.03-07-034, we addressed the threshold question of whether CCAs should be treated differently from other parties in the process of allocating energy efficiency program funds. We affirm here that CCAs should be permitted to apply for energy efficiency program funds as any other party and, for the time being, should not be granted preferences.

We concur with Schiller and Mahone that we should continue to match programs to objectives and administrative structures and to periodically refine our strategic approach to energy efficiency program development on the basis of changing circumstances. We believe, however, that this effort requires more time and effort than is available for the 2004-05 funding cycle. However, we do intend to conduct some form of program review, as the July 3 assigned Commissioner ruling suggests.

C. Types of Programs

For each program cycle, the Commission may adopt a different mix of programs depending on the types of programs proposed, how programs meet criteria, and the potential for energy savings in relevant markets. In the past, the Commission has funded activities that fall into the following categories:

1. Statewide programs
2. Local programs
3. Statewide marketing and outreach
4. Market assessment and evaluation activities.

More detailed program descriptions are included in Attachment 1.

The July 3 assigned Commissioner ruling suggested that all parties be able to apply for all types of programs.

No party objected to the Commission's funding any particular type of program. SCE argues that third parties may not and should not be permitted to compete for funding for statewide programs. CSUF objects to SCE's suggestion that third parties be excluded categorically from implementing statewide programs. The CEC suggested increasing funding for measurement and evaluation work from 4%.

Consistent with our previous discussion, our primary objective in this proceeding is to promote cost-effective energy efficiency savings fairly and sensibly. In pursuit of that objective, we do not wish to limit a party's ability to propose a program. To do so means we eliminate from consideration potentially cost-effective programs and effective entities, as we have already discussed in the context of allocating funding between types of entities. To assure the state receives the benefit of the best and most cost-effective package of energy efficiency programs, we will permit any party to propose any type of energy efficiency program for funding. Similarly, we will not establish allocations to various types of programs, but judge each proposal on the basis of how it meets adopted public policy criteria. We will consider increasing the M&E funding level, as the CEC suggests, if additional funds appear to be required for meaningful M&E reports, based on the contract proposals we receive for this work in 2004-05.

D. Extending Utility Programs

The July 3 assigned Commissioner ruling sought the parties' comments on whether the utilities should be permitted to extend current statewide and local programs for an additional two years through the end of 2005. The ruling suggested any requests for extensions would need to be supported with evidence that the programs are successful and still in demand by customers. It proposed the utilities modify programs to improve cost-effectiveness, administrative efficiency, or fulfill other program criteria.

TURN objects to any automatic extensions on the basis that they would provide preference to the utilities at the expense of third-party program funding. Proctor Engineering raises similar concerns. The utilities and Schiller & Mahone generally support this change in procedure, observing that it will promote program stability and continuity. SCE proposes that this extension obviates the need for any program solicitation.

We concur with the assigned Commissioner ruling that the utilities should be permitted to propose program extensions for an additional two years. On the basis of our review of AB 117, however, these extensions could not be automatic because we must treat all parties' proposals equally and permit all parties to compete for 2004-05 program funds. AB 117 requires the Commission establish a process under which "any party" may apply for program funding and have their proposals reviewed on the basis of public policy objectives.

Consistent with our objective to apply funds to the most promising programs, utility proposals for program extensions must demonstrate that those programs are successful and meet the criteria applied to all program proposals, on the same basis as other parties. We will address those requests for extensions in a future order that will allocate all public goods charge funds for 2004-05 energy efficiency programs.

E. Criteria and Policy Rules for 2004-2005 Program Selection

The Commission has evaluated recent program proposals from all parties using the program selection criteria adopted in D.01-11-066. That order articulated the objectives of the Commission's energy efficiency programs and adopted criteria for evaluating energy efficiency program proposals, as follows:

1. Long-Term Annual Energy (Gas and Electric) Savings,
2. Cost Effectiveness,
3. Addressing Market Failures or Barriers,
4. Equity Considerations,
5. Electric Peak Demand Savings,
6. Innovation, and
7. Synergies and Coordination with Programs Run by Other Entities.

The July 3 assigned Commissioner ruling solicited the parties' views on whether and how the Commission should modify these evaluation criteria.

Several parties commented on the relevance of existing criteria. PG&E proposes to remove the criteria that refer to innovation, synergies with other programs, and market failures. It proposes that each program meet at least one of the criteria and that program portfolios meet all four in a more or less balanced way. PG&E also proposes the Commission eliminate the point system in the Policy Manual as "subjective." SCE would also reduce the list of evaluation criteria.

Sempra would add creditworthiness and program experience to this list. SDREO would add criteria that recognize customer preferences. San Francisco would add "environmental justice" to the list of criteria to recognize that minority and low-income customers living next to power plants are disproportionately affected by pollution. It also suggests the Commission consider the benefits of reducing regional peak demand, which may differ from statewide effects.

Sesco makes several suggestions for changing the criteria by which the Commission evaluates proposals. It advocates that preference be given to cost-effectiveness, not energy savings in isolation, which creates a bias in favor of large projects that are not necessarily most cost-effective. NAESCO and Sisson also advocate for increased emphasis on program cost-effectiveness. NAESCO proposes the Commission recognize various types of benefits that occur from energy efficiency programs and that cost-effectiveness may differ according to geographic area. It also emphasizes the need for those who implement programs to coordinate their efforts in ways that permit customers to see a whole package of energy efficiency options, rather than a set of disparate program offerings.

The CEC, among others, suggest that reducing peak demand is a more important policy objective than the current ranking suggests, considering that it improves system stability and reduces the need for new capacity. The CEC also suggests the Commission's evaluation criteria recognize the need for programs to be consistent with resource needs identified in the procurement proceeding (R.01-10-024).

Discussion. We retain most of the program criteria adopted in D.01-11-066, but do modify some in ways that reflect changes in markets and build on our recent experience. We adopt the following criteria in order of importance, as follows:

1. Cost Effectiveness,
2. Electric Peak Demand Savings,
4. Equity, including environmental impacts on local communities,
5. Ability to overcome market failures,
6. Innovation,
7. Coordination with programs run by other entities, and
8. Demonstrated success implementing energy efficiency programs.

We agree with the parties who raised concerns about characterizing total energy savings as the most important criteria because it suggests we are more concerned with the size of an individual program rather than its effectiveness. We would prefer many cost-effective programs rather than a few large but less effective programs. Moreover, we would not fund any program that would not provide benefits that exceeded costs (even if we must estimate or infer energy savings, as in the case of information and marketing programs). A cost-effectiveness test already captures economies of scale and a program's ability to affect long term savings rather than just near term savings. For this reason, we remove "long-term energy savings" from the list.

We agree with CEC and others who suggest that reducing peak demand should be among the most important selection criteria. Reducing peak demand improves system reliability and permits the state to forego expensive capital investments in new power for on-peak demand. We rank the evaluation criteria accordingly. We will give additional weight to proposals that would reduce peak demand in geographic areas that are transmission-constrained or otherwise face reliability problems that have been identified by the ISO.

As CEC suggests, we also intend to provide a preference for programs that would address resource needs the Commission has identified, whether as part of the procurement review or other process. We do not include this as a criteria but intend to select proposals that would address identified resource needs in cases where competing proposals are otherwise comparable from the standpoint of satisfying other criteria, such as cost-effectiveness or equity.

We continue to encourage parties to propose creative and innovative programs. We also agree with parties who suggest that success in delivering energy efficiency programs should be added to the list of program selection criteria. In this context, we expect parties to be able to show that their past programs have been cost-effective (for those measured that way) and have reached targeted communities. We also refine the definition of "equity" by including a reference to environmental impacts on local communities, as San Francisco proposes, recognizing that environmental quality is among the essential benefits of energy efficiency programs and one the Commission has explicitly endorsed.

Information and statewide marketing and outreach programs should be evaluated using criteria most relevant to these programs. Accordingly, we do not require an explicit showing of cost-effectiveness or a demonstration that programs will reduce peak demand. To the extent a proposal can demonstrate these kinds of benefits, however, we will credit the proposal accordingly.

We do not adopt PG&E's suggestion that we reduce the evaluation criteria and judge proposals on the basis of a portfolio of program proposals. Many who propose programs may not present a portfolio of programs and our goal is to choose programs that maximize cost-effective energy savings. PG&E's proposal may have the opposite effect: by reducing accountability for individual program elements, and masking their effectiveness, we may inadvertently fund programs that are less cost-effective than competing proposals. PG&E and SCE may propose a reduced list of criteria for the energy efficiency programs that are incorporated in their procurement portfolios.

We also decline to eliminate the point system, which PG&E believes is subjective. While the point system may not be precise or perfectly objective, no party has proposed an improvement to the existing rating system. We adopt the following points for each selection criteria according to the type of program as follows:

<u>PGC "Hardware" and Incentive Programs</u> –

Cost-Effectiveness (60 points);

Peak Demand Reductions (15 points);

Equity (10 points);

Ability to overcome market failures (5 points);

Innovation (5 points);

Coordination with Other Entities (5 points);

Demonstrated success implementing energy efficiency programs (5 points).

<u>Information-Only and Statewide Marketing and Outreach Programs</u> – Ability to overcome market failures (25 points);

Equity (25 points);

Innovation (25 points);

Coordination with other Program Implementers (20 points); and,

Demonstrated success implementing energy efficiency programs (5 points)

The Commission will select a portfolio of programs consistent with these policy goals and objectives. We agree with Sempra that parties who implement energy efficiency programs should be creditworthy. We would not treat this as a criterion, but will require a demonstration of creditworthiness on the part of those who propose energy efficiency programs.

F. Marketing and Outreach Programs

The assigned Commissioner ruling solicited the parties views on whether the Commission should allocate about $15 million to marketing and outreach (M&O) programs. It suggested permitting any party to propose statewide M&O programs for 2004-05.

Energy Partnership proposes the Commission retain the current level of spending for M&O programs, about $20 million. It also suggests program criteria that promote coordination between those managing programs and those conducting M&O programs to promote the effectiveness of both types of programs and avoid duplication of efforts. In particular, Energy Partnership observes that a single website could provide information about or links to all PGC programs.

We concur with Energy Partnership that all parties implementing programs should demonstrate that they will coordinate their efforts with parties implementing M&O programs, and will include that requirement as an element of narrative program descriptions. Consistent with our previous discussion, we will not commit to any particular level of funding for M&O programs at this time but review proposals in light of how they meet various program criteria. However, we will not increase funding above $15 million without a very strong showing of potential program results relative to other types of program proposals.

G. Market Assessment and Evaluation

The July 3 assigned Commissioner ruling solicited suggestions for market assessment and evaluation activities for 2004-2005 programs. It also suggested the Commission consider reestablishing the measurement and evaluation protocols used by the Commission prior to l996.

PG&E proposes consistent evaluation criteria for all parties. Proctor Engineering and Cal-UCONS support the use of previous M&E protocols as long as they are applied equally to all parties. They also suggest the findings of these investigations should be applied in the first program year. The CEC suggests the Commission contract for M&E activities, observing that entities with program funding have incentives to influence evaluations of their own programs and may be able to assert that influence if they are managing evaluation contractors.

We will continue to refine the M&E protocols by way of workshops. Until the parties have had an opportunity to work with Commission staff on this issue, we will continue to use existing M&E protocols. We agree with the CEC that we should oversee M&E activities to avoid conflicts and the appearance of conflicts. We also believe more independent evaluations protect the funded entities from accusations that their evaluations are not credible or independent. Accordingly, we will issue contract proposals for M&E activities and manage those contracts for 2004-05 programs.

H. Contracts and Program Administration

Some parties raised concerns about program administration and the nature of contracts between the utilities and third parties, which govern third-party activities and payments. Energy Solutions recommends the contracts apply standard industry terms for time and materials rather than cost-plus terms, suggesting industry standards would promote more cost-effective use of funds. Schiller and Mahone oppose many aspects of the existing policy manual concerning program administration, and suggest completely revising the manual to clarify and simplify the process. WEM raises several concerns about contract language, the contracting process and schedules for administration.

We understand that the existing contracts and Policy Manual may require modifications on the basis of program experience and changes in circumstances. We will conduct workshops to better understand the parties' concerns and after that, we may issue a decision modifying the Policy Manual.

I. Extending Third-Party Programs

The assigned Commissioner ruling proposed that third parties implementing energy efficiency programs be able to propose extending those programs through the second quarter of 2004 using current approved funding levels. Program implementers would be allowed to commit all funds to specific purposes no later than March 31, 2004, and have until June 1, 2004 to complete all program activities, including final installations, evaluation, measurement and verification, and final reports. Final reports and evaluations for extended programs would be due no later than July 1, 2004.

LA does not oppose this change but asks that parties be permitted to submit related proposals no later than November rather than by September. We make that change in the schedule. We also delegate authority to the

Executive Director to approve these extensions since they do not require authorization of new funds or program elements, but simply extend program offerings for an additional time period.

Energy Partnership, a contractor granted about $15 million for M&O programs in 2003, believes it should not be required to compete for M&O funding in 2004-05 and instead should get an extension of funding using the process proposed for the utilities. It suggests it requires the extension in order for its programs to be continuous and effective. SCE supports this program and contract extension for Energy Partnership.

We will permit third parties to seek program extensions for existing programs through the second quarter of 2004. These requests for extensions of time should explain the reasons for program delays and should not seek additional funding. These extensions will not affect funding for or administration of 2004-05 programs. Because these extensions do not require new funding or program elements, the Executive Director will have discretion to approve or deny the extensions on behalf of the Commission.

We do not grant Energy Partnership's request for an automatic extension of its marketing programs at this time. Consistent with our treatment of extensions for utility programs, we cannot award a contractor $15 million in funding without a review of past program performance and an understanding of future program commitments. We encourage Energy Partnership to apply for future funding.

J. Program Review Process and Schedule

Information about the process for applying for 2004-2005 energy efficiency program funding will be posted at the Commission's website. All parties must submit proposals no later than September 23 2003. Parties should assume the total budget for energy efficiency programs will be those funds collected pursuant to Section 381 from electric utilities and Section from gas utilities. Utilities' proposals should specify how they would allocate additional procurement funds approved in R.01-10-024.

The parties generally advocate issuance of an order that finalizes funding for programs by the end of the year. The Commission intends to authorize energy efficiency programs selected for funding in an order to be issued in December 2003, recognizing the need for program continuity and time for parties to plan their procurement and delivery strategies .

IV. Procedural Matters

The Commission issued a draft decision on August 1, 2003. Parties stipulated to a reduction of the § 311(g) public review and comment period, and filed comments on August 12 and reply comments on August 18.

V. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Kim Malcolm is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Granting energy efficiency program funding for a two-year cycle during 2004-05 will promote program continuity and stability.

2. Many third parties who receive energy efficiency program funding for 2002-2003 programs have not had adequate time to implement their programs because of initial delays in funding. Granting third parties an additional six months to implement their programs could compensate for the previous delay.

3. Permitting the utilities to propose two-year extensions to existing programs may promote program continuity and reduce administrative burdens.

Permitting the utilities to receive automatic program extensions would reduce the likelihood that the Commission can achieve maximum cost-effective energy savings and would limit the funding available for competing proposals by other entities.

4. Section 381, Section 890 and AB 117 articulate state policy to promote energy efficiency programs that are cost-effective.

Conclusions of Law

1. AB 117 requires the Commission to consider proposals for energy efficiency program funding from all types of entities and to judge those proposals on the basis of cost-effectiveness and other public policy objectives.

2. AB 117 does not permit the Commission to grant an automatic preference for energy efficiency program funding to a particular type of entity.

3. The Executive Director has authority to approve or deny six-month program extensions proposed by third parties implementing energy efficiency programs funded for 2002-03.

4. If the utilities propose two-year extensions to existing energy efficiency programs, they should be required to demonstrate that those programs meet adopted evaluation criteria on the same basis as any other party proposing program funding for 2004-05.

5. In light of the language in AB 117 and Section 381 articulating the need for energy efficiency programs that are cost-effective, it is reasonable to accord significant weight to those program proposals that demonstrate cost-effectiveness.

6. Parties should apply for energy efficiency program funding for 2004-05 according to the schedule and procedures set forth herein, and as more specifically detailed at the Commission's website, www.cpuc.ca.gov.

O R D E R

1. The policies for applying for 2004-05 energy efficiency program funding are set forth herein. The Executive Director is hereby authorized provide detailed information about applying for 2004-05 energy efficiency program funding on the Commission's website, consistent with the practices and policies set forth herein.

2. Parties wishing to apply for 2004-05 energy efficiency program funding must do so no later than September 23, 2003, or by a date designated by the assigned Commissioner, and consistent with this order and the procedures provided at the Commission's website.

3. This decision adopts the 2004-05 program selection criteria as set forth herein.

4. The Commission hereby delegates authority to the Executive Director to grant or deny requests by parties implementing 2002-03 energy efficiency programs to extend the time to implement those programs to June 30, 2004, as set forth herein.

Dated _____________, at San Francisco, California.

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1. Statewide Programs

Statewide programs are those that are uniform, with consistent terms and requirements, throughout all utilities' service territories. These consistent terms should include identical application procedures, financial incentives, and other program implementation details.

A. Statewide Residential Programs

1. Statewide Residential Retrofit

This program category targets energy savings in existing single-family and multi-family residential homes. Programs may include a full range of services, such as information, outreach, training, audits, and direct incentives for energy-efficient technologies. Alternatively, they may include one or more of these service elements.

a. Downstream Appliance, Lighting & HVAC Rebates

This program would provide rebates for purchases of the following technologies, individually, or in any combination:

1. Energy Star furnaces
2. Energy Star central air-conditioners
3. Energy Star room air-conditioners
4. Energy Star Compact Fluorescent Lamps
5. Whole house fans
6. Energy Star clothes washers
7. Energy Star dishwashers

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8. Energy Star windows
9. High efficiency hot water heaters.

2. Comprehensive Residential Retrofits

This program includes installation of building shell energy efficiency measures, and other comprehensive treatments, including, but not limited to:

1. Insulation
2. Windows
3. Weather stripping
4. Duct sealing
5. Reflective roofing.

a) Appliance Retirement and Recycling

This program promotes refrigerator, freezer, and room air-conditioner recycling. Any appliance retirement program should offer comprehensive toxic material recycling and disposal in conformance with California environmental laws and regulations and permitting requirements.

(3) Statewide Residential New Construction

Proposals for new statewide residential new construction programs should set a benchmark above the current June 2001 Title 24 building code standards. Parties' proposals should incorporate the California Energy Commission's proposed code revisions in 2005. Because Title 24 standards exceed federal standards, the Energy Star Homes label itself may not be appropriate for a California residential new construction program, though the

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general approach may be. Parties should target a benchmark no lower than Title 24 energy use levels.

B. Statewide Nonresidential Programs

1. Statewide Nonresidential Retrofit

This program category promotes retrofits in all commercial building sectors. Programs may emphasize technical support, capacity-building, emerging technology demonstration, and quality assurance. Some examples of such programs are as follows:

a) Large and Medium Nonresidential Customized Program

Among the programs for large and medium nonresidential sectors are the Standard Performance Contract (SPC) program, customized rebates, and demand-side bidding programs. These programs offer incentives on the basis of verified energy savings, rather than by prescribing replacement of specific equipment.

b) Small Business Rebates

Customer rebates could be offered for the following technologies or others:

1. T8 and/or T5 lamps
2. Electronic ballasts
3. Lighting controls such as photocell controllers and occupancy sensors
4. Compact Fluorescent Lamps (CFLs)
5. High-efficiency motors,
6. Heating, Ventilation, and Air conditioning (HVAC) measures.

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c) Building Operator Certification and Training

Building operator certification and training programs would educate operators of large and medium commercial buildings, including public buildings, on short- and long-term peak demand and energy savings strategies for their buildings. After participating in training activities, individual building operators could become certified in efficient building operation.

2. Statewide Nonresidential New Construction

Statewide nonresidential new construction programs should set a new benchmark above the Title 24 building code in consultation with the California Energy Commission and should support CEC's proposed 2005 code revisions. This type of program emphasizes incentives to incorporate energy savings measures during the design process rather than specifying applicable technologies.

C. Statewide Cross-Cutting Programs

A cross-cutting program may target both residential and non-residential customers or may support other programs in either retrofit or new construction markets. The following are examples of these types of programs.

1. Statewide Marketing and Outreach

Statewide marketing and outreach programs may include information campaigns capitalizing on the success of the state's *Flex Your Power* campaign and advertising statewide programs offered across utility service territories. In addition, such programs may include upstream marketing and outreach to manufacturers and retailers.

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2. Upstream Appliance, Lighting and HVAC Rebates

By coordinating with manufacturers and distributors, upstream programs ensure that high-efficiency technologies are available in stores for purchase by residential and business consumers. Programs could include the following technologies (or others):

1. Energy Star furnaces
2. Energy Star central air conditioners
3. Energy Star room air conditioners
4. Energy Star CFLs
5. Whole house fans
6. Energy Star clothes washers
7. Energy Star dishwashers
8. High efficiency hot water heaters, and
9. Energy Star Windows.

3. Local Programs

Local programs may respond to local customer needs and take advantage of local relationships to increase participation.

a) Local Residential Programs

Proposals may offer comprehensive outreach, financing, technical support, contractor facilitation and outreach, as well as quality assurance.

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b) Local Nonresidential Programs

Local programs may building on local relationships and networks to reach nonresidential customers. They may emphasize technical support, outreach, contractor referral and oversight, bulk procurement, financing, and quality assurance. Eligible energy efficiency measures should include high-efficiency lighting, HVAC, and refrigeration.

They may also promote energy efficiency in the industrial and agricultural sectors of the state. Proposals should emphasize technical support, financing, education and training/capability-building, and strong measurement and verification plans.

c) Local Cross-Cutting Programs

Local cross-cutting programs may target multiple sectors and/or both retrofit applications and new construction.

(1) Education/Training/Outreach

This program provides education, training and outreach in local communities. Such programs may build infrastructure and strengthen institutions in order to expand the capability for energy efficiency delivery. They may be targeted to community-based organizations.

(2) Building Codes and Standards Support

This program supports local efforts to inform and train builders, developers, building officials, and tradespersons on code and standards revisions.

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(END OF ATTACHMENT 1)

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ELECTRONIC SERVICE PROTOCOLS

Process for Submission and Selection of New Program Proposals

Any party may propose funding for an energy efficiency program. Proposals should follow the rules and evaluation criteria set forth in the most current version of the Commission's energy efficiency Policy Manual. Instructions for preparation and submission of proposals and all relevant materials are available on the Commission's website at: http://www.cpuc.ca.gov/static/industry/electric/energy+efficiency/rulemaking.htm.

Parties may submit any number of proposals. The cover page for the proposals must indicate the number of proposals being submitted by the proposing entity or its affiliates.

Commission staff will review proposals and provide recommendations to the Commission.

Process for Submission of Utility Program Plans

No later than September 23, 2003, the utilities file and serve their request for energy efficiency funding for 2004 and 2005 funds collected pursuant to Section 381. Proposals should estimate energy savings, other performance targets, and detailed budgets for each program. The utilities shall submit separate plans for each program and include the following:

1. A completed Implementation Workbook. A sample of the workbook will be provided to any party who makes a request to zap@cpuc.ca.gov or (415) 703-5618.
2. A narrative that contains the following program plan and budget information:
    - Title of program
    - Requested budget
    - Description of the program (one page or less)

- A description of how the proposal differs from existing related programs, if relevant
- If the program is the same as the 2003 program, evidence that the program was successful and that demand for program services remains
- Energy and peak demand savings targets, as well as per-unit energy savings and unit-count projections, including quarterly performance goals that will result in reaching these targets
- Results of cost-effectiveness calculations, for those programs in which energy savings will be measured
- For information programs with no energy savings targets, other objective measures for evaluating program progress
- Hard-to-reach customer segment targets and quantifiable goals
- Plans for coordination with other energy efficiency programs, including those run by the filing utility, other jurisdictional utilities, local utility programs, municipal utilities, and low income programs
- Plans for coordination with parties funded to provide marketing and information services
- Procedures for responding to customer questions or complaints regarding the program, and for resolving program or performance disputes with program participants or customers

3. Tables summarizing program portfolio and budgets for each utility:

   - In developing their program plans and budgets for 2004 and 2005, each utility shall provide an accounting of the total amount of public goods charge (PGC) funds available for its energy efficiency programs in 2004 and 2005. The utilities should include calculations of the expected electric and gas PGC collections for 2004 to 2005, as well as an accounting of any funds left over from previous years, including interest, that the utilities can carry over and budget for 2004 to 2005 programs.
   - Each utility shall also provide a summary table providing the following information for PY2003 and that proposed for PY2004 to PY2005: the allocation of their total program budgets to various program categories – i.e., statewide vs. local, residential retrofit/new construction, nonresidential retrofit/new construction, and cross-cutting programs; the energy savings targets associated with each program, and the cost

effectiveness values for each program. The table should also include a statewide program total, a local program total, and a grand total. The table should provide a total resources cost (TRC) ratio for the proposed program portfolio. Utilities should provide workpapers used to derive these figures.

- Parties may file and serve comments on the utility plans no later than October 8, 2003, and reply comments no later than October 15, 2003.

Process for Submission of Request for Extension: Current Non-Utility Local Programs

No later than November 1, 2003, third parties implementing local programs funded for 2003 may file and serve requests for extensions to program contracts through the second quarter of 2004. These requests should not include proposals for additional funding.

Requests for extensions should include a description of the additional or previously planned but uncompleted activities that would be undertaken in 2004. Requests should include estimates of energy savings and performance targets for each program. Upon receiving completed requests, the administering utility will execute contract extensions to March 31, 2004. All program activities must be completed by June 1, 2004, including final installations, evaluation, measurement and verification, and final reports. Final reports, including program evaluations, are due no later than July 1, 2004.

(END OF ATTACHMENT 2)